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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,197	08/31/2000	Ronald A. Modesto	00AB143	4226

7590 07/22/2003

Attention John J Horn
Rockwell Automation
Patent Dept / 704P Floor 8 T-29
1201 South Second Street
Milwaukee, WI 53204

EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
	2863

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/652,197	MODESTO ET AL.
	Examiner Tung S Lau	Art Unit 2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 June 2003.
 - 2a) This action is FINAL. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1,4,5,7-11,15,16,18-22,25,26 and 28-31 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) 7-10,18-21 and 28-31 is/are allowed.
 - 6) Claim(s) 1,4,5,11,15,16,22,25 and 26 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- a. Claims 1, 11, 22, 5, 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroyone (U.S. patent 5,462,424) in view of Bienderman et al (U.S. Patent application 2002/0081169).

Kuroyone discloses a part measurement system, method of measuring a dimension including a press machine, having a lower die coupled to an upper die (col. 12-13, lines 65-4, fig. 14), wherein the lower die includes a top surface supporting a strip of material to be formed into a part after a stripper plate coupled to the upper die contacts the strip of material (col. 13, lines 5-10, fig. 14); a part measurement sensor located in the lower die (col. 13, lines 15-30), wherein the sensor measures a critical dimension of the part while the part is in the lower die (col. 13, lines 31-53); a part forming rail coupled to the lower die, wherein the forming rail and the upper die form the critical dimension of the part (fig. 14, unit 102, 104, 180); and a press controller coupled to the press machine and the sensor (fig. 14, unit 182a, 182b), wherein the controller (fig. 16, unit 63, 63a) processes a measurement signal from the part measurement sensor of the

critical dimension of the part, compares the measurement signal to a predetermined threshold value (col. 14, lines 15-20), and generates a command signal (col. 14, lines 20-31) to the press machine to adjust the forming rail based on the measurement signal; wherein the forming rail is coupled to a servo controllable by the press controller to change the height of the forming rail based on the measurement from the sensor of the critical dimension of the part (col. 13-14, lines 43-65) and further wherein the upper die includes a knocker (fig. 14, unit 102) that contacts the forming rail to form the critical dimension of the part (col. 14-15, lines 32-12), feeding a strip of material through the press machine (col. 36, lines 18-43), compares the signal before the upper die punch and measure measures after the punch (col. 14, lines 14-67), is a progressive punch press (col. 14-15, lines 43-55), analog output from the sensor (fig. 15, unit 197).

Kuroyone does not disclose the stepper elements having multiple steps of differing in heights and operates the servo to position the stepper element in a stepwise manner. Bienderman discloses the stepper elements having multiple steps of differenring in heights and operates the servo to position the stepper element in a stepwise manner (page 22-23, section 0220-0224), in order to increase the efficiency and decrease the costs associated with the manufacture of parts (page 6, section 0044).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kuroyone to have the stepper elements having multiple steps of differing in heights and operates the servo to position the stepper element in a stepwise manner taught by Walter in order to increase the efficiency and decrease the costs associated with the manufacture of parts (page 6, section 0044).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
 - a. Claims 4, 15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroyone (U.S. patent 5,462,424) in view of Bienderman et al (U.S. Patent application 2002/0081169) and Takahashi et al. (5,299,351).

Kuroyone and Bienderman disclose a method and system including the subject matter discussed above except the use of proximity sensor. Takashashi discloses the use of proximity sensor (col. 3-4, lines 59-2), to be able to continue

feeding to the machine without shut off so it can display inherent performance and provide improved operating rates (col. 2, lines 51-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kuroyone and Bienderman to have the use of proximity sensor taught by Takashashi in order to be able to continue feeding to the machine without shut off so it can display inherent performance and provide improved operating rates (col. 2, lines 51-56).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 11, 22, 5, 16, 26, 4, 15 and 25 have been considered but are moot in view of the new ground(s) of rejection. However, applicant's arguments filed 6/6/2003 have been fully considered but they are not persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Allowable Subject Matter

4. Claims 7-10, 18-21, 28-31 are allowed.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance:

Independent claim 7 contains allowable subject matter. None of the prior art of record shows or fairly suggests the claimed invention.

Regarding claims 7, 18 and 28:

The primary reason for the allowance of claims 7, 18 and 28 are the inclusion of the part measurement system including the use of average measurement signal based on the first and the second measurement signal. It is these features found in the claim, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes this claim allowable over the prior art.

Claim 8 is allowed due to their dependency on claim 7.

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Claims 19-21 are allowed due to their dependency on claim 18.

Claims 29-31 are allowed due to their dependency on claim 28.

Regarding claim 9:

The primary reason for the allowance of claim 9 is the inclusion of the part measurement system including the first measurement signal when the press is between 130 and 150 degrees. It is these features found in the claim, as they are claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes this claim allowable over the prior art.

Claim 10 is allowed due to their dependency on claim 9.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309.

The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 RightFAX Telephone Numbers : TC2800 Official Before-Final RightFAX - (703) 872-9318, TC2800 Official After-Final RightFAX - (703) 872-9319

TC2800 Customer Service RightFAX - (703) 872-9317

TL

July 10, 2003



John B. Barnes
Supervisory Patent Examiner
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